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4/13/17

John Drabek
US EPA Region 10
1200 Sixth Ave, OWW-130
Seattle, WA 98101

Submitted via email: Drabek.John@epamail.epa.gov

RE: Idaho Conservation League comments on revisions to the NPDES permit for Sorrento Lactalis, Permit No. ID 28037

Dear Mr. Drabek

Thank you for the opportunity to comment on the revisions to the draft NPDES permit for the Sorrento Lactalis facility located in Nampa, ID. Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting and restoring water quality throughout the Boise River watershed.

We remain concerned that the beneficial uses for the receiving water body, Purdam Gulch Drain (PGD), have not been definitively identified. PGD is a Water of the U.S. and as such must be regulated accordingly. If information pertaining to a water body is lacking, as is the case here, then the most protective measures must be implemented until such time that adequate information is obtained. This issue is discussed in greater detail below in our comments.

Please do not hesitate to contact me at 208-345-6933 ext. 23 or ahopkins@idahoconservation.org if you have any questions regarding our comments or if we can provide you with any additional information on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "At H", is placed above the printed name.

Austin Hopkins
Conservation Associate

RE: Idaho Conservation League comments on the revised draft NPDES for Sorrento Lactalis, Permit No. ID 0020837

Building Block Approach for BOD₅ and TSS Effluent Limits

The EPA has revised their method of calculating BOD₅ and TSS limits in order to use a building block approach and combine all applicable ELGs into one ELG for the production of the facility. We disagree with this approach primarily because the beneficial uses of PGD remain unknown. The PGD needs to be protected to the maximum extent possible until all of the beneficial uses for PGD are identified and supported by thorough and complete surveys.

Failure to do this creates a scenario where Sorrento's discharge could be creating an inhospitable environment for aquatic life, thus negatively influencing the required Existing Use Data Collection surveys and not accurately portraying the actual beneficial uses for PGD. In lieu of absolute knowledge regarding beneficial uses, the EPA should utilize the most stringent protection levels available, similar to the previous draft permit.

Furthermore, PGD flows into Mason Creek, which is currently listed in Category 5 of Idaho's most recent approved Integrated Report (DEQ, 2012). Mason Creek has a number of causes of impairment, one of which is sedimentation and siltation. At this time, Mason Creek's assimilative capacity for sediment is unknown. Until such time that a TMDL is developed for Mason Creek, it is inappropriate to increase the level of a pollutant discharged into a water body that eventually flows into an impaired water body.

Once again, we encourage the EPA to utilize the BOD₅ and TSS limits calculated for the 2016 Draft Permit rather than the proposed revised limits.

Existing Use Data Collection

As part of revisions to the 2016 draft permit, the EPA is proposing to eliminate requirements that Sorrento collect existing use data on PGD, including dates and types of uses (before and on/after Nov. 28, 1975). Under Idaho Administrative Code, any use of PGD on or after Nov. 28, 1975, is considered an existing beneficial use or existing use (IDAPA 58.01.02.010.38). Further, under Idaho's Antidegradation Policy (IDAPA 58.01.02.051), all waters in the State are afforded Tier I protection, requiring the maintenance of existing uses.

Given this information, the requirements to collect data on PGD's origin and historical uses cannot be removed from the revised permit. As such, we request that the EPA reverse their decision to delete Sections 1 and 2 from the Existing Use Data Collection section of the permit.